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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,727	04/14/2004	Sam Colosimo	133940	4795
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EXAMINER				
SPAHN, GAY				
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3635				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/823,727

**Applicant(s)**

COLOSIMO ET AL.

**Examiner**

Gay Ann Spahn

**Art Unit**

3635

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,6,7,12,15-19,21,22 and 24-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-19 is/are allowed.
- 6) ☒ Claim(s) 1,6,7,12,15,16,21,22 and 24-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-849)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

The present examiner notes that in the Office Action mailed on 13 October 2006, Examiner Horton acknowledged receipt of the certified copies of the priority documents. However, no such document has been received. Therefore, the present examiner is vacating Examiner Horton's acknowledgment of receipt of the certified copy of the priority document as follows:

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in CANADA on 13 April 2004. It is noted, however, that applicant has not filed a certified copy of the Canadian application as required by 35 U.S.C. 119(b).

### ***Power of Attorney***

The examiner notes that in the "Resubmission of Power of Attorney" filed on 13 October 2006 has been accepted by the Office of Initial Patent Examination (OIPE).

### ***Drawings***

The drawings were received on 13 March 2008. These drawings are acceptable to the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 26-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**Claims 26 and 27**, lines 1-2, the recitation of "the first portion has a top U-shaped portion that engages and surrounds a top edge of the rib portion of the peripheral edge of the panel" is vague, indefinite and confusing as not lacking antecedent basis because no "convex portion" has been previously introduced in claim 1 and claim 12, respectively. **These claims will be examined on the merits as if they were dependent upon both claim 21 and claim 24.**

**Claim 28**, lines 1-2, and **claim 29** directly dependent upon claim 30, the recitation of "the convex portion has a convex outer surface and a corresponding concave inner surface" is vague, indefinite and confusing as not lacking antecedent basis because no "convex portion" has been previously introduced in claim 17. **These claims will be examined on the merits as if claim 28 was dependent upon claim 1.**

**Claims 30**, lines 1-2, and **claim 31** directly dependent upon claim 30, the recitation of "the convex portion has a convex outer surface and a corresponding concave inner surface" is vague, indefinite and confusing as not lacking antecedent basis because no "convex portion" has been previously introduced in claim 21. **These claims will be examined on the merits as if claim 30 was dependent upon claim 12.**

***Claim Objections***

**Claims 22 and 23 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.**

More particularly, claim 21, lines 4-5, recites "a first portion having a U-shaped top that encompasses and forcibly engages a top edge of the rib portion" so that claim 22's recitation that "the first portion forcibly engages the rib portion" fails to further limit claim 21.

Claim 21, lines 4-5, recites "a first portion having a U-shaped top that encompasses and forcibly engages a top edge of the rib portion" so that claim 23's recitation that "the first portion has a top U-shaped portion that engages and surrounds a top edge of the rib portion of the peripheral edge of the panel" fails to further limit claim 21.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 6, 7, 10, 28, 29, 12, 15, 16, 30, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by KOBAYASHI ET AL. (U.S. Patent No. 5,049,700).**

**As to claim 1, KOBAYASHI ET AL. disclose an access floor assembly for installation on a sub-floor, the access floor assembly comprising:**

a plurality of elongate support members (40), each of said support members (40) having a base (46) "for attachment to said sub-floor" (the structure of KOBAYASHI ET AL. is capable of performing the recited intended use within quotation marks), and a head (44) longitudinally spaced from said base (46);

a plurality of access floor panels (12), each said access floor panel (12) defining a top planar surface (top of 12) and an opposed bottom planar surface (bottom of 12), each said access floor panel (12) "being detachably connectable to the head of at least one of said support members" (the structure of KOBAYASHI ET AL. is capable of performing the recited intended use within quotation marks), each of the access floor panels \*12) defining a plurality of peripheral edges (four edges of 12) "for abutting a peripheral edge of a respective access floor panel" (the structure of KOBAYASHI ET AL. is capable of performing the recited intended use within quotation marks); and

a plurality of gaskets (20) "for providing an air tight seal between the peripheral edges of abutting access floor panels" (the structure of KOBAYASHI ET AL. is capable of performing the recited intended use within quotation marks), each of said gaskets having a first portion (L-shaped portion of 20 in Figs. 6 and 9 adjacent rounded portion) "for attachment to one of said floor panels" (the structure of KOBAYASHI ET AL. is

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capable of performing the recited intended use within quotation marks) and a flexible and resilient sealing portion (round portion on bottom of 20) "for creating a seal between the peripheral edges of the abutting access floor panels" (the structure of KOBAYASHI ET AL. is capable of performing the recited intended use within quotation marks), wherein the first portion (L-shaped portion of 20 in Figs. 6 and 9 adjacent rounded portion) of each of said gaskets (20) has an elongate trim portion (upper leg of L-shaped portion of 20 in Figs. 6 and 9 adjacent rounded portion) attached to one of the floor panels (12) adjacent the top planar surface (top of 12) and the resilient portion (rounded portion of 20) forms a lowermost portion of the gasket (20) adjacent the bottom planar surface (bottom of 12), the resilient portion (rounded portion of 20) having a convex profile that is "resiliently depressible into a flattened profile" (the structure of KOBAYASHI ET AL. is capable of performing the recited intended use within quotation marks).

**As to claim 6, KOBAYASHI ET AL.** disclose the access floor assembly of claim 1 as discussed above, and KOBAYASHI ET AL. also disclose that each of said plurality of gaskets (20) abuts another one of said plurality of gaskets (20) "to form an air seal when the access floor assembly is installed" (the structure of KOBAYASHI ET AL. is capable of performing the recited intended use within quotation marks).

**As to claim 7, KOBAYASHI ET AL.** disclose the access floor assembly of claim 1 as discussed above, and KOBAYASHI ET AL. also disclose that each of said gaskets (20) is integrally formed on one of said peripheral edges of one of said floor panels (12).

**As to claim 10, KOBAYASHI ET AL.** disclose the access floor assembly of claim 1 as discussed above, and **KOBAYASHI ET AL.** also disclose that the gaskets (20) are formed of a flexible and resilient material (see col. 4, lines 5-6, wherein it states that the packing material 20 is "elastically deformed" meaning the material is flexible and resilient).

**As to claim 28, KOBAYASHI ET AL.** disclose the access floor panel of claim 17 [sic – claim 1] as discussed above, and **KOBAYASHI ET AL.** also disclose that the convex portion (rounded bottom portion of 20) has a convex outer surface and a corresponding concave inner surface.

**As to claim 29, KOBAYASHI ET AL.** disclose the access floor panel of claim 28 as discussed above, and **KOBAYASHI ET AL.** also disclose that the convex portion (rounded bottom portion of 20) has a substantially constant thickness.

**As to claim 12, KOBAYASHI ET AL.** disclose an access floor panel for attachment to a pedestal of an access floor assembly, the access floor panel comprising:

a top planar surface (top of 12) and an opposed bottom planar surface (bottom of 12), said access floor panel (12) defining a plurality of peripheral edges (sides of 12);  
and

a plurality of gaskets (20, 20), one said gasket (20) being attached to each of said peripheral edges (sides of 12), said gaskets (20, 20) each having a first portion (upper leg of 20) attached to a respective said peripheral edge (side of 12) and a flexible and resilient sealing portion (round bottom portion of 20) "adapted to create a



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seal between said respective peripheral edge and a peripheral edge of an abutting access floor panel" (the structure of KOBAYASHI ET AL. is capable of performing the recited intended use within quotation marks), wherein the first portion (upper leg of 20) of said gaskets (20, 20) has an elongate trim portion (upper leg of 20) attached to one of the floor panels (12) adjacent the top planar surface (top of 12) and the resilient portion (round bottom portion of 20) forms a lowermost portion of the gasket (20) adjacent the bottom planar surface (bottom of 12), the resilient portion (round bottom portion of 20) having a convex profile that is resiliently depressible into a flattened profile.

**As to claim 15, KOBAYASHI ET AL.** disclose the access floor panel of claim 12 as discussed above, and KOBAYASHI ET AL. also disclose that each of said gaskets (20, 20) is formed of a flexible and resilient material (see col. 4, lines 5-6, wherein it states that the packing material 20 is "elastically deformed" meaning the material is flexible and resilient).

**As to claim 16, KOBAYASHI ET AL.** disclose the access floor panel of claim 12 as discussed above, and KOBAYASHI ET AL. also disclose that the access floor panel (12) and the gasket (20) are attached in one of an interlocking arrangement and by an adhesive (see col. 3, line 67 to col. 4, line 1, wherein it states that packing material 20 is "bonded" to the outside surface meaning it is adhesively attached).

**As to claim 30, KOBAYASHI ET AL.** disclose the access floor panel of claim 21 as discussed above, and KOBAYASHI ET AL. also disclose that the convex portion (round bottom portion) has a convex outer surface and a corresponding concave inner surface.

**As to claim 31, KOBAYASHI ET AL.** disclose the access floor panel of claim 30 as discussed above, and **KOBAYASHI ET AL.** also disclose that the convex portion (round bottom portion) has a substantially constant thickness.

**Claims 21, 22, 26, and 27 are rejected under 35 U.S.C. 102(a) as being anticipated by SCHMID ET AL. (German Patent Application Publication No. DE 37 31 126 A1).**

**As to claim 21, SCHMID ET AL.** disclose the access floor panel comprising a metal frame (1 in Fig. 6c) and at least one gasket (3 in Fig. 6c), wherein the metal frame (1) has a peripheral edge (left side of Fig. 2) that includes a rib portion (vertical portion of 1 in Fig. 6c), and wherein said at least one gasket (3) comprises a first portion (upper portion of 3) having a U-shaped top portion (upper portion of 3) that encompasses and forcibly engages a top edge of the rib portion (vertical portion of 1) of the peripheral edge, and a flexible and resilient sealing portion (bottom portion of 3) extending downward from the first portion (upper portion of 3) outside of the rib portion (vertical portion of 1).

**As to claim 22, SCHMID ET AL.** disclose the access floor panel of claim 21 as discussed above, and **SCHMID ET AL.** also disclose that the first portion (upper portion of 3) forcibly engages the rib portion (vertical portion of 1).

**As to claims 26 and 27, SCHMID ET AL.** disclose the access floor panel of claim 1 and 12 [sic – claim 21], respectively, as discussed above, and **SCHMID ET AL.**

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also disclose that the first portion (upper portion of 3) has a top U-shaped portion (upper portion of 3) that engages and surrounds a top edge of the rib portion (vertical portion of 1) of the peripheral edge of the panel.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over SCHMID ET AL. (German Patent Application Publication No. DE 37 31 126 A1) in view of KOBAYASHI ET AL. (U.S. Patent No. 5,049,700).**

**As to claim 24, SCHMID ET AL.** disclose an access floor panel comprising a metal frame (1 in Fig. 6c) and at least one gasket (3 in Fig. 6c), said metal frame (1) having a peripheral edge with a substantially vertical rib portion (vertical portion of 1 in Fig. 6c), said at least one gasket (3) engaging said vertical rib portion and extending downwardly therefrom on the outside of the peripheral edge.

SCHMID ET AL. fail to explicitly disclose a lowermost portion of the gasket forming a sealing portion having a convex profile that is depressible into a flattened profile.

KOBAYASHI ET AL. disclose a lowermost portion (round bottom portion of 20 in Figs. 5, 6, 8, and 9) of the gasket (20) forming a sealing portion having a convex profile that is depressible into a flattened profile.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the floor panel of SCHMID ET AL. by including a lowermost portion of the gasket forming a sealing portion having a convex profile that is depressible into a flattened profile as taught by KOBAYASHI ET AL. in order to seal the lowermost portion floor panel against an adjacent floor panel so that water, dirt or other debris cannot pass beyond the bottom of the floor panels.

**As to claim 25,** SCHMID ET AL. in view of KOBAYASHI ET AL. disclose the access floor panel of claim 24 as discussed above, and SCHMID ET AL. also disclose that said at least one gasket (3) forcibly engages a top edge of said vertical rib portion (1).

**As to claims 26 and 27,** SCHMID ET AL. in view of KOBAYASHI ET AL. disclose the access floor panel of claim 1 and 12 [sic – claim 24], respectively, as discussed above, and SCHMID ET AL. also disclose that the first portion (upper portion of 3) has a top U-shaped portion (upper portion of 3) that engages and surrounds a top edge of the rib portion (vertical portion of 1) of the peripheral edge of the panel.

***Response to Arguments***

Applicant's arguments with respect to claims 1, 6, 7, 10, 12, 15, 16, 21, 22, and 24-31 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

Claims 17, 18, and 19 are allowed.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Friday, 10:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571)-272-6777. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gay Ann Spahn/  
Gay Ann Spahn, Patent Examiner  
June 22, 2008